



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO-P-2015-0008]

Change to Internet Usage Policy to Permit Oral Authorization for Video Conferencing Tools by Patent Examiners

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) established an Internet usage policy in 1999, and this Internet usage policy permits patent examiners to communicate via the Internet only with individuals who have a written authorization in the application. This Internet usage policy also applies to USPTO video conferencing tools such as WebEx for use by patent examiners. The USPTO is updating its Internet usage policy by modifying the authorization requirements to now permit oral authorization for video conferencing tools, such as WebEx, to be provided by the patent applicant/practitioner to patent examiners before an interview is conducted.

DATES: *Effective:* The change to the Internet usage policy set forth in this notice is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Mark Polutta, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy at (571)-272-7709.

SUPPLEMENTARY INFORMATION: The USPTO adopted an Internet usage policy in 1999. See Internet Usage Policy, 64 FR 33056 (June 21, 1999). The Patents portion of the Internet usage policy has been incorporated into section 502.03 of the Manual of Patent Examining Procedure (MPEP). The Trademarks portion of the Internet usage policy has been superseded by the Trademark Manual of Examining Procedure, which contains the relevant guidance on this subject matter for trademark examining attorneys, trademark applicants, and registration owners.

In accordance with the Internet usage policy as adopted in 1999, patent examiners may communicate via the Internet only with individuals who have a written authorization in the application. See MPEP 502.03 (9th ed. 2014). This Internet usage policy also applies to USPTO video conferencing tools, such as WebEx, used by patent examiners.

The USPTO is updating its Internet usage policy by modifying the authorization requirements for patent examination to now include oral authorization for video conferencing tools such as WebEx in view of the more prevalent and accepted use of electronic communications and improvements in internet security. The USPTO will now accept oral authorization by the patent applicant/practitioner (practitioner) to participate in a video conference. Practitioners may request a video conference just as they would request a telephone or in-person interview with the examiner. For applicants that are

juristic entities, see MPEP 401, which explains that a juristic entity must be represented by a registered practitioner.

Under the updated Internet usage policy, patent examiners may now use USPTO video conferencing tools, e.g., WebEx, to conduct examiner interviews in both published and unpublished applications without written authorization in the application. Authorization by the practitioner (which may be oral) to conduct a video conference is still required and must be obtained prior to sending a meeting invitation using e-mail, calendar/scheduler applications, or USPTO video conferencing tools. Authorization is required to confirm that the practitioner is able to conduct a video conference and to confirm the e-mail address to which the invitation will be sent. The patent examiner should note on the record the details of the authorization either in the interview summary or a separate communication. This authorization is limited to the video conference interview being arranged (including the meeting invitation) and does not extend to other communications regarding the application.

Although this change in Internet usage policy provides applicant's representative with an alternative to providing a written authorization to conduct an interview using USPTO video conferencing tools, the best practice is to have such written authorization of record in the file.

All Internet communications between USPTO employees and practitioners must be made using USPTO tools. Video conferencing communications regarding a patent application

must be hosted by USPTO personnel. No personal phones, non-USPTO e-mail, PDAs, etc. may be used by USPTO employees for official communications.

In accordance with MPEP 502.03 and 713.04, all communications with regard to the merits of a patent application between USPTO employees and applicants must be made of record.

Dated: April 23, 2015.

Michelle K. Lee,
*Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office.*

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